

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and/or approvals necessary for)	
WISCONSIN ELECTRIC POWER COMPANY and)	Case No. U-18337
UPPER MICHIGAN ENERGY RESOURCES)	
CORPORATION to fully comply with Public Act)	
295 of 2008.)	
_____)	

At the September 28, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On February 28, 2017, the Commission issued an order (February 28 order) directing Wisconsin Electric Power Company (WEPCo) to file its energy optimization (EO) annual report and reconciliation of EO payments and revenues for the 2016 calendar year as required by 2008 PA 295, MCL 460.1001 *et seq.* (Act 295). The February 28 order, p. 2, noted that “although Wisconsin Public Service Corporation and Wisconsin Electric Power Company have transferred the majority of their Michigan customers and operations to the Upper Michigan Energy Resources Corporation [UMERC], effective December 9, 2016, these providers had approved EOPs in 2016, and are required to file energy optimization reconciliations for that year.”

In accordance with the February 28 order, on April 28, 2017, WEPCo and UMEREC filed an application and supporting testimony and exhibits in this docket, requesting approval of an EO annual report and reconciliation of WEPCo's EO payments and revenues for the period ended December 31, 2016.

On June 27, 2017, Administrative Law Judge Dennis W. Mack conducted a prehearing conference, at which the petition to intervene filed by Tilden Mining Company L.C. (Tilden) was granted. WEPCo, the Commission Staff, and Tilden participated in the proceeding. Subsequently, the parties submitted a settlement agreement resolving all the issues in this case.

The Commission has reviewed the settlement agreement and finds that it is reasonable, in the public interest, and should be approved.

THEREFORE, IT IS ORDERED, that:

- A. The settlement agreement, attached as Exhibit A, is approved.
- B. Wisconsin Electric Power Company's energy optimization annual report is approved.
- C. Wisconsin Electric Power Company's reconciliation of the 2016 energy optimization payments and revenues is approved.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of September 28, 2017.

Kavita Kale, Executive Secretary

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determinations, and/or approvals necessary for)	Case No. U-18337
WISCONSIN ELECTRIC POWER COMPANY)	
and UPPER MICHIGAN ENERGY RESOURCES)	
CORPORATION to fully comply with)	
Public Act 295 of 2008.)	
_____)	

SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 431 of the Rules of Practice and Procedure before the Michigan Public Service Commission ("Commission"), Mich Admin Code, R 792.10431, Wisconsin Electric Power Company ("Wisconsin Electric"), Upper Michigan Energy Resources Corporation ("UMERC") (collectively, the "Companies"), Tilden Mining Company L.C. ("Tilden"), and the Commission Staff ("Staff") agree as follows:

1. On February 28, 2017, the Commission issued its Order in Case No. U-18330 *et al.*, opening the docket in this matter and directing Wisconsin Electric to file its energy optimization ("EO") annual report and reconciliation of EO payments and revenues for the 2016 calendar year. The Commission's Order noted (page 2, footnote 2) that "although Wisconsin Public Service Corporation and Wisconsin Electric Power Company have transferred the majority of their Michigan customers and operations to the Upper Michigan Energy Resources Corporation, effective December 9, 2016, these providers had approved EOPs in 2016, and are required to file energy optimization reconciliations for that year."

2. Wisconsin Electric and UMEREC filed their Application and the supporting testimony and exhibits of Mr. Eric Alan Rogers in this docket on April 28, 2017. UMEREC was included in the Application because any over-recovery or under-recovery attributable to legacy Wisconsin Electric retail customers now receiving service from UMEREC in the WEPCo Rate Zone was proposed to be rolled over into UMEREC's 2017 energy waste reduction ("EWR"), formerly EO, costs and reconciliation.

3. On May 26, 2017, the Commission's Executive Secretary issued the Notice of Hearing in this proceeding directing Wisconsin Electric and UMEREC to: (i) mail a copy of the Notice of Hearing to all cities, incorporated villages, townships and counties in their Michigan electric service area and to intervenors in Case No. U-18019; (ii) publish the Notice of Hearing in daily newspapers of general circulation throughout their Michigan electric service area; and (iii) serve copies of their filing on each person who petitioned to intervene. The Companies electronically filed their affidavit of mailing, proofs of publication and proof of service in this docket.

4. On June 27, 2017, Administrative Law Dennis W. Mack ("ALJ") conducted a prehearing conference, and Tilden's Petition to Intervene was granted. The Companies, the Staff, and Tilden participated in the proceedings.

5. The parties have participated in settlement discussions and agree as follows:

a. Wisconsin Electric's reconciliation of EO payments and revenues for 2016, with interest, results in a net over-recovery (including interest through December 31, 2016) of \$514,448.71, representing a net over-recovery of \$559,438.45 for Wisconsin Electric's CpLC Class (consisting solely of Tilden), and a net under-recovery of

\$44,989.74 for Wisconsin Electric's other retail customers, who now receive service from UMERCo in the WEPCo Rate Zone.

b. The net over-recovery of \$514,448.71, as of December 31, 2016, should be treated as follows: (i) Wisconsin Electric's over-recovered amount of \$559,438.45 for Wisconsin Electric's CpLC Class should be rolled into Wisconsin Electric's 2017 EO/EWR costs and reconciliation for its CpLC Class customer, and (ii) the under-recovered amount of \$44,989.74 should be rolled into UMERCo's 2017 EO/EWR costs and reconciliation for the legacy WEPCo Rate Zone customers.

c. Wisconsin Electric's EO reconciliation meets the requirements of 2008 Public Act 295 and should be approved by the Commission.

d. The EO annual report meets the requirements of 2008 Public Act 295, and should be approved by the Commission.

6. All of the signatories are of the opinion that this settlement agreement is reasonable, prudent and will aid in the expeditious conclusion of this case.

7. This settlement agreement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are considered privileged under MRE 408. If the Commission approves this settlement agreement without modification, neither the parties to the settlement nor the Commission shall make any reference to, or use this settlement agreement or the order approving it, as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this settlement agreement and the order approving it.

8. Pursuant to Rule 431(6) of the Commission's Rules of Practice and Procedure, the parties agree any order approving this settlement agreement shall not establish precedent for future proceedings and shall not be used as such. If the Commission approves this settlement agreement, without modification, the undersigned parties agree not to appeal, challenge or otherwise contest the Commission order approving this settlement agreement.

9. This settlement agreement is not severable. Each provision of this settlement agreement is dependent upon all other provisions of this settlement agreement. Failure to comply with any provision of this settlement agreement constitutes failure to comply with the entire settlement agreement. If the Commission rejects or modifies this settlement agreement or any provision of this settlement agreement, this settlement agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall not operate to prejudice the pre-negotiation positions of any party.

10. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969 (MCL 24.281), as it applies to the issues in this proceeding, if the Commission approves this settlement agreement without modification.

WISCONSIN ELECTRIC POWER COMPANY

Date: September 14, 2017

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TILDEN MINING COMPANY L.C.

Date: September 14, 2017

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MICHIGAN PUBLIC SERVICE COMMISSION STAFF

Date: September 14, 2017

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